

PT 02-58

Tax Type: Property Tax

Issue: Religious Ownership/Use

STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
CHICAGO, ILLINOIS

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FULL GRACE  
TEMPLE CHURCH  
APPLICANT

v.

THE DEPARTMENT OF REVENUE  
OF THE STATE OF ILLINOIS

No. 02-PT-0034  
(01-37-0016)  
P.I.N: 06-11-204-007-0060

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**RECOMMENDATION FOR DISPOSITION**

**APPEARANCE:** Mr. John Alshuler, Special Assistant Attorney General, on behalf of the of the Illinois Department of Revenue.

**SYNOPSIS:** This proceeding presents the issue of whether the residence situated on real estate identified by Henry County Parcel Index Number 06-11-204-007-0060<sup>1</sup> qualifies for exemption from estate taxation, as a housing facility provided for clergy within the meaning of Section 15-40 of the Property Tax Code, 35 ILCS 200/1-1, *et seq.*, at any point during the 2001 assessment year. The underlying controversies arise as follows:

The Full Grace Temple Church (the “Applicant”) through it pastor, William E. Randall, filed a *pro-se* Application for Property Tax Exemption with the Henry County

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1. The residence unit that is the subject of this proceeding shall hereinafter be referred to as the “residence;” the real estate on which that residence is situated shall hereinafter be referred to as “the subject property.”

Board of Review (the “Board”) on June 13, 2001. The Board reviewed the Application and recommended to the Illinois Department of Revenue (the “Department”) that the requested exemption be denied. The Department then issued its determination in this matter on April 18, 2002, which found that: (a) the portion of the subject property that contained the church and its underlying ground qualified for exemption from real estate taxation for 60% of the 2001 assessment year under 35 ILCS 200/15-40;<sup>2</sup> but, (b) all other portions of the subject property, to wit, the residence and its underlying ground, did not qualify for such exemption due to lack of exempt use.

Applicant filed a *pro-se* appeal to this partial denial and, after being afforded an opportunity to obtain assistance of counsel, chose to waive the assistance of counsel and appear *pro-se* at the evidentiary hearing in this matter. (Tr. pp. 7-8). Following a careful review of the record made at that hearing, I recommend that the Department’s initial determination in this matter be affirmed.

**FINDINGS OF FACT:**

1. The Department’s jurisdiction over this matter and its position therein are established the admission of Dept. Group Ex. No. 1.
2. The Department’s position in this matter is, for present purposes, that the residence is not in exempt use. *Id.*
3. The residence is situated on a larger church complex located in Colona, IL. *Id.*
4. Applicant’s pastor, the Rev. William Randall, resides in the residence but does not do so as a condition of his employment. Tr. pp. 13-14.

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2. This portion of the Department’s determination is presently not at issue because neither applicant nor the Department have challenged it herein. Tr. pp. 6-9.

## **CONCLUSIONS OF LAW:**

Article IX, Section 6 of the Illinois Constitution of 1970 provides as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

Pursuant to Constitutional authority, the General Assembly enacted Section 15-40 of the Property Tax Code 35 **ILCS** 200/1-1 *et seq.*, wherein the following are exempted from real estate taxation:

### **200/15-40. Religious purposes, orphanages, or school and religious purposes**

All property used exclusively<sup>3</sup> for religious purposes,<sup>4</sup> or used exclusively for school and religious purposes, or for orphanages and not leased or otherwise used with a view to a profit, is exempt, including all such property owned by churches or religious institutions or denominations and used in conjunction therewith as housing facilities provided for ministers (including bishops, district superintendents and similar church officials whose ministerial duties are not limited to a single congregation), their spouses, children and domestic workers performing the duties of the vocation as ministers at such churches or religious institutions or for such religious denominations, and including the convents and monasteries where persons engaged in religious activities reside.

A parsonage, convent or monastery or other housing facility shall be considered under this Section to be exclusively used for religious purposes when the church, religious institution or denomination requires that the

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3. The word "exclusively" when used in Section 200/15-40 and other property tax exemption statutes means the "the primary purpose for which property is used and not any secondary or incidental purpose." Pontiac Lodge No. 294, A.F. and A.M. v. Department of Revenue, 243 Ill. App.3d 186 (4th Dist. 1993).

4. As applied to the uses of property, a religious purpose means "a use of such property by a religious society or persons as a stated place for public worship, Sunday schools and religious instruction." People ex rel. McCullough v. Deutsche Evangelisch Lutherisch Jehova Gemeinde Ungeanderter Augsburgischer Confession, 249 Ill. 132, 136-137 (1911).

above-listed persons who perform religious related activities shall, as a condition of their employment or association, reside in the facility.

35 ILCS 200/15-40.

Property tax exemptions are inherently injurious to public funds because they impose lost revenue costs on taxing bodies. In order to minimize the harmful effects of such lost revenue costs, exemption statutes must be interpreted in rigorous conformity with the Constitutional limitations thereon. Accordingly, statutes conferring property tax exemptions are to be strictly construed so that all factual inferences, debatable legal questions and other disputed matters are resolved in favor of taxation. People Ex Rel. Nordland v. the Association of the Winnebago Home for the Aged, 40 Ill.2d 91 (1968); Gas Research Institute v. Department of Revenue, 154 Ill. App.3d 430 (1st Dist. 1987)).

The statutory exemption at issue herein is that portion of Section 15-40 that governs the exemptions of parsonages.<sup>5</sup> The statutory requirements for this exemption are as follows: first, that the property be owned by a duly qualified religious organization (Immanuel Evangelical Lutheran Church of Springfield v. Department of Revenue, 267 Ill. App.3d 678 (4<sup>th</sup> Dist. 1994); and, second, that the religious organization-owner require the minister or other employed clergy to reside in the facility as a condition of employment. Evangelical Alliance Mission v. Department of Revenue, 164 Ill. App. 3d 431, 444 (2<sup>nd</sup> Dist. 1987). Only the latter requirement is at issue herein, as the instant denial for the residence was based strictly on lack of exempt use.

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5. The general "religious use" exemption contained in Section 15-40 is not currently at issue because: (a) applicant's church is already exempt under terms of the Department's initial determination herein; and, (b) neither applicant nor the Department have challenged the portion of the Department's determination that exempted the church in this proceeding. Dept. Group Ex. No. 1; Tr. pp. 6-9.

With respect to the usage issue currently before me, applicant's pastor, William Randall, testified as follows:

Q. [By the ALJ]:<sup>6</sup> Now, during 2001, did you [the church's governing board] pass any resolutions or anything that required you to live in the parsonage as a condition with Full Grace Temple Church?

A. [by Rev. Randall] Required me?

Q. Yes, that required you as a condition of your employment to live in the parsonage?

A. I don't guess anything requires you to live anywhere. As far as "required," I don't know what you mean. Did they order me to live there? No. No one has that authority to order me to live anywhere.

Tr. pp. 13-14.

Based on this testimony, I conclude that the applicant, Full Grace Temple Church, did not require Rev. Randall to reside in the residence currently at issue as a condition of his employment. Accordingly, in the absence of any evidence indicating otherwise, I conclude that Rev. Randall resided in said residence as a matter of convenience.

Such convenience does not equate to the type of occupational necessity required under Section 15-40. Evangelical Alliance Mission v. Department of Revenue, 164 Ill. App. 3d 431, 444 (2<sup>nd</sup> Dist. 1987). Consequently, the residence currently at issue was not used for the narrow set of "religious" purposes mandated by Section 15-40 of the Property Tax Code. Therefore, the Department's initial determination in this matter,

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6. The ALJ questioned Rev. Randall because Rev. Randolph chose to waive counsel and appear *pro-se*. However, the ALJ specifically advised Rev. Randolph: (a) that the ALJ could not act as Rev. Randall's attorney and/or attorney for the applicant; and, (b) that the ALJ would be questioning Rev. Randall for the sole purpose of making a record. Tr. pp. 7-9.

denying said residence exemption from 2001 real estate taxes under Section 15-40, should be affirmed as issued.

WHEREFORE, for all the aforementioned reasons, it is my recommendation that in accordance with the Department's initial determination in this matter, issued by the Office of Local Government Services on April 18, 2002:

- A. The church situated on real estate identified by Henry County Parcel Index Number 06-11-204-007-0060, and a proportionate amount of its underlying ground, be exempt from real estate taxation for 60% of the 2001 assessment year under 35 **ILCS** 200/15-40;
- B. The residence situated on said real estate, and a proportionate amount of its underlying ground, not be exempt from real estate taxation for any part of the 2001 assessment year.

October 15, 2002

Date

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Alan I. Marcus  
Administrative Law Judge